

/332 cont./

695 Besides it is possible that the diminution, at least following our
571 intervention, of the effective force of the swearers, formerly considerable in case of murder, for example, has impoverished the institution. Here are some datable indications that permit conjecturing so.

[195] /The following two paragraphs are in small type in the original source./ An act of 1257 Heg.: 1841, from the lower valley and referring "to the time of the sultanian h'âkim Ibn Abdeççadoq," that is, to a more or less makhzanian ambience, constitutes a declaration of insolvency for a quinquagenarian cojuratio in a murder case. This insolvency is certified by twelve witnesses — the rate of the laffi: a curious point of junction between two procedural orders.

195 An act of 1233 Heg.: 1818 (a. H'adduyws) reveals a trait differently
695 archaic. During the course of ceremonies not described,
613 but which doubtlessly were dependent on pacts of alliance, and after a solemn declaration at the timezgida of Tasstuf (Sidi Lah'sen u Tiqqi), subdivisions of ikhs of the Idaw Geryun fix among themselves the order of taking plural oaths. A serious action and involving the future. The a. Benâisa of Messdat speak also in the name of their progeny to come. Protestations of mutual and eternal pardon are exchanged. Finally, they agree on a fixed order in which future ceremonies will be performed. First, such-and-such a family of the a. D'alh'a (the a. Bubker) will swear, then such-and-such another one of the same ikhs, in third place the a. Benâisa of Messdat. "If they are required to swear, they will mutually support one another."

• [674] Such a text is important. It refers to oath-takings where the agnatic family does not succeed in furnishing the allowed number of coswearers; this is notably the case for criminal questions. The present pact thus constitutes in certain respects a mutual assurance against the imputation of murder. The alliance between a. D'alh'a and a. Messdat suggests, besides, possible interferences between a genealogical system and contractual agreements: the prospects thus opened are rich. Now, the date of such a pact

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11
(ca. 1900)

TRADITIONAL RURAL SOCIAL STRUCTURE

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as the *'adat* or *'urf*, the distinction between these two words being somewhat confused. Customary law is consulted in all civil cases (such as disputes regarding terrain, water rights, inheritance, etc.), and in minor criminal matters – the customary law having been replaced by a French-sponsored penal code in most aspects of criminal law since the establishment of the Protectorate. This customary law is established and revised by the local representative councils of each region; it may be administered either by them or by a designated arbiter (*annezzarfou*), this arbiter being required to have a great knowledge of the local law, and to be an intelligent and experienced man highly regarded by all. If possible, he should be a stranger to the group involved, or else divorced from its mundane affairs by virtue of being a holy man (Johns Hopkins University, 1956, pp. 231-232; Loubignac, 1942, p. 281). [671] [177] [692]

The most important aspects of the *azrif* are water rights and (formerly) penal crimes such as theft, abduction of women, adultery, wounds, blows, and murder. Water rights are still carefully regulated by the *'urf* or customary law of each group. Among the Beni Uriaguel (99), for example, the *qanuns* or edicts of customary law dealing with irrigation carefully take into account the nature of flow in different rivers. Thus, on the Lower Rhis, in the Plain of Alhucemas, where the flow is constant but not altogether sufficient, the *qanuns* state that any man who purchases land must buy his irrigation turn independently. In the case of the Nekor River which is extremely erratic, the *qanuns* provide that the purchaser of land is automatically entitled to irrigation water, because most of the year there is sufficient quantity for all. Throughout the Berber areas litigation regarding water rights is kept at a minimum through the existence of water administrators (known as *amazsal*, pl. *imazsalen*, among the Shluh) who distribute the irrigation water in accordance with the recognized rights (Hart, 1954, pp. 56-57). [671] [312] [674] • [691] [624]

In its application to criminal acts the Berber *azrif* was characterized by great dependence upon oaths and upon the imposition of fines. This first feature (oaths) was the principal reason for the Berber court usually meeting in a mosque or at a market with an associated shrine, for in all cases the litigants swear by something to give efficacy to their oaths, and this is generally something which has [695] [681]